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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,806	10/01/2001	Darrell T. McKenzie	DANA-138	3402
23599	7590	11/12/2004	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			CECIL, TERRY K	
		ART UNIT		PAPER NUMBER
				1723

DATE MAILED: 11/12/2004

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/965,806

Filing Date: October 01, 2001

Appellant(s): MCKENZIE, DARRELL T.

**MAILED**

NOV 12 2004

**GROUP 1700**

John R. Moses  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 8-25-2004.

**(1)     *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2)     *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3)     *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4)     *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5)     *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6)     *Issues***

The appellant's statement of the issues in the brief is correct.

**(7)      *Grouping of Claims***

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because applicant did not separately argue claim 3. Claim 3 and the dependents therefrom (claims 4-5, and 7-8) will stand or fall together with claims 1-2 and 9-11.

**(8)      *ClaimsAppealed***

A substantially correct copy of the appealed claim 1 appears on the first page of the Appendix to the appellant's brief. The minor errors are as follows: "supported" has been misspelled in line 10 and "the" should be added before "plate portion" in line 11.

**(9)      *Prior Art of Record***

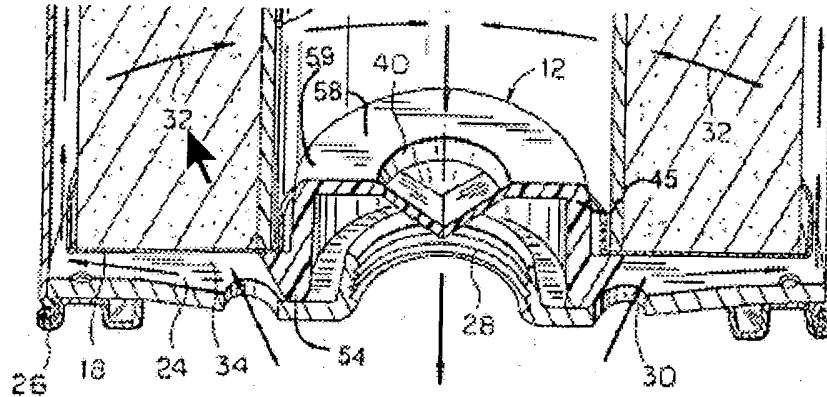
U.S. 3,369,666	Hultgren et al.	02-1968
U.S. 3,567,023	Buckman, et al.	03-1971
U.S. 3,802,564	Turman	04-1974

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

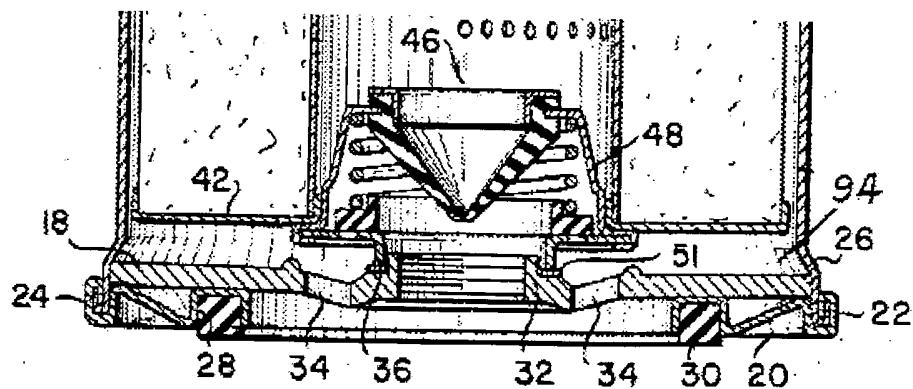
Claims 1-11 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 1-21-2004.

**(11) Response to Argument**



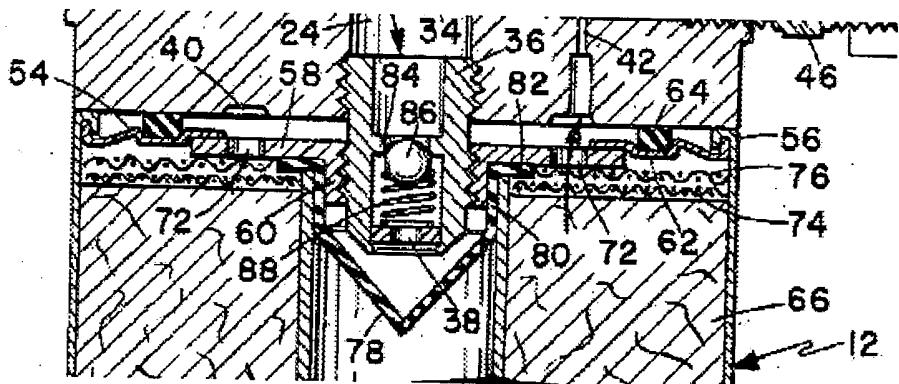
Applicant's combination filter element support and anti-prefill valve 12 is shown to the left and is claimed as a unitary body "being of a single piece"

(claim 1), e.g. made of rubber (claim 11).

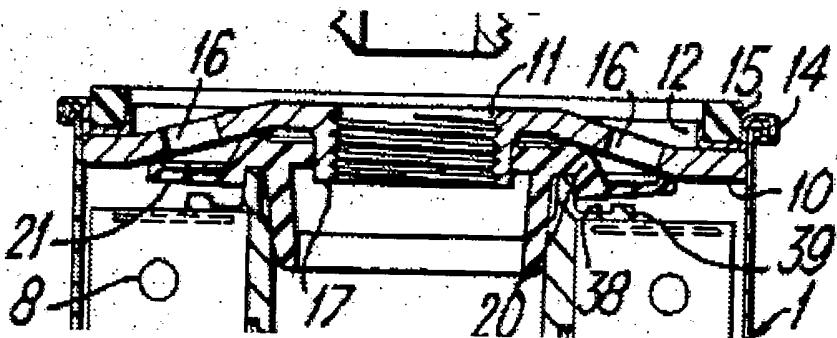


The combination filter element support and anti-prefill valve of Hultgren (the primary reference) is reproduced above.

Turman (the secondary reference) is used for his teachings of valve and support portions being made of a single piece (e.g. rubber) as shown below.



Alternately, Buckman is also used as a secondary reference for his teachings of valve and support portions being made of a single piece (e.g. rubber).



Applicant argues (page 5) that Hultgren's anti-drainback is not an anti-prefill valve since Hultgren doesn't teach that the valve prevents the filter from being filled with old or used oil by an unscrupulous mechanic. This is not convincing since Hultgren teaches the following in col. 4

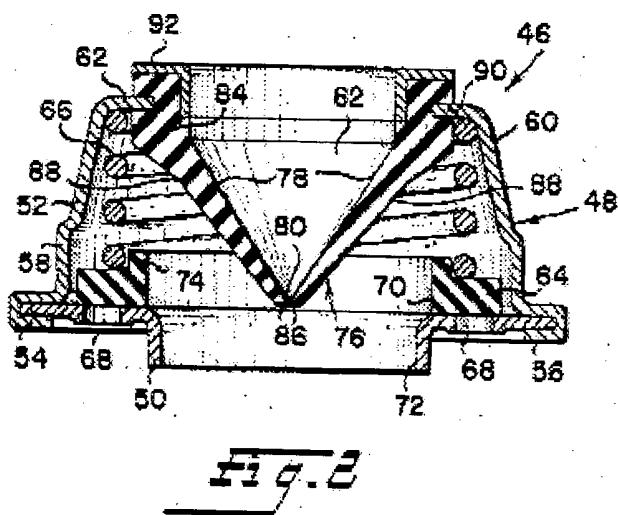
the central opening formed by the nipple 32. The duck bill configuration of the flexible anti-drain back valve 76 will permit the oil to flow only in one direction there.  
60 through since the knife edge or lip edge 80 of the valve will prevent the oil from flowing in a reverse direction through the anti-drain back valve when the engine is shut down. At this time the lips will return to their free state original position, and form a tight seal and prevent  
65 the return of oil flow through the valve. It will be noted

Both the applicant's and Hultgren's valve are positioned in a similar location (on the clean side of the filter) and are normally closed, such that fluid cannot flow "through the central spin-on opening and into the hollow core of the filter element" as claimed in claim 1. Hultgren's valve only opens when fluid is being circulated under pump pressure—also as claimed in claim 1.

Applicant's argues (pages 5-6) that neither secondary reference teaches an anti-prefill valve. However, it is pointed out the primary reference Hultgren is relied upon for his teachings of an anti-prefill valve and that the secondary references were not relied upon for this limitation but for their teachings of valve/support portions being a single piece (e.g. rubber).

On page 6, applicant's recitation of lines 9-11 of claim 1 is *incorrect*: it should read  
"...the plate portion (46) being supported in spaced relation to the end plate only at the peripheral

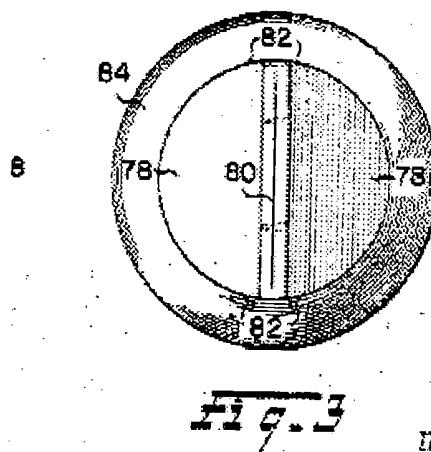
portion of the *plate portion ...*" In regards to applicant's argument that neither secondary reference teaches this limitation, it is pointed out that the primary reference Hultgren teaches a



limitations are taught.

plate portion 62 that is supported (in spaced relation to the end plate) only at the peripheral portion thereof, such that upon modification for the annular, plate, and valve portions (48, 50, 62, 78) of Hulgren to be a single piece as in either Turman or Buckman, the argued

Concerning claim 3 (although not separately argued), the limitations of a purse valve comprising lips which intersect along a line are clearly taught by Hultgren as shown in his figure 3, reproduced below.



For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Mr. Terry K. Cecil  
Primary Examiner  
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TKC  
November 9, 2004

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